

III. REMARKS

Claims 15, 20-25, 31-41, 49, 50, 52, 54-58 are currently pending in the present application. Of these, claims 15 and 31-34 stand allowed. Applicant gratefully acknowledges the indication of allowability of claims 15 and 31-34. Applicant believes that the remainder of the claims have either been rewritten so as to be in allowable form, or have been cancelled

EXAMINER INTERVIEW SUMMARY

The Examiner in charge of the present application is thanked for the courtesies extended in having a telephone interview after final with the undersigned Attorney of Record on the morning of May 1, 2007. The interview began with the undersigned pointing out that with claim 20 now being allowable, it appeared that claims 26-30, previously restricted out, could now be placed back on active status and be allowed as ultimately depending from an allowable parent claim. The Examiner agreed that they could, and, therefore, claims 15, 26-30 and 31-34 stand allowed.

Next, amendments to claim 20 were discussed. It was pointed out to the Examiner that in the Miles 5,916,199 construction, while recess 74 of cover 52 is curvilinear, and of semi-circular cross-section, when the base 50 and cover 52 are closed, the recess 74 does not contact the tubing 20 at all, instead contacting channel walls 64. This leaves the possibility of the tubing 20 moving in the holder 14, as the device is designed (column 6, line 22-25) not to exert compressive force, or reduce flow

in the tubing 20. The present invention is designed to eliminate any movement of the tubing in the device.

Applicant, through the undersigned, suggested the amendment of claim 20 to clarify it by stating that, when closed, the curvilinear channel is of substantially circular cross-section, and to require that the channel contact the tubing around substantially its entire periphery. The Examiner agreed that this seemed to be a patentable difference.

Amendments to claim 49 were next discussed. The Attorney of Record for the Applicant pointed out that the newly cited Menshen US 3,982,304 showed two recesses (aligned recesses 26,30 and 28-32) holding, apparently, two different longitudinally extending members (34,36). The fact that two different numbers were used implies two different members.

Amendment to claim 49 to clarify that a single piece of tubing went through both of the at least two channels in the present invention was proposed. The Examiner pointed out that without the tubing being positively claimed, such an amendment would not be limiting. It was proposed to amend claim 49 to positively claim the piece of tubing, in addition to the piece of tubing going through both channels. The Examiner agreed that this would overcome the art.

It was agreed that an amendment would be electronically filed as soon as possible so that a final decision could be made without needing to file an RCE.

CLAIM REJECTIONS – 35 USC §102

Claims 20-25 and 35-41 are rejected as being anticipated by U.S. Patent No. 5,916,199 to Miles.

The Examiner states:

The patent to Miles discloses a tubing device comprising a tube support, figs. 2 and 2A, comprising a curvilinear channel (60) disposed therein for receiving a piece of tubing (20) and means for holding the piece of tubing in the channel wherein the tube support comprises a first portion (50) and a second portion (52), with the first and second portions being connected by a hinge, as recited in claim 20.

As discussed in the Examiner Interview Summary above, Claim 20 has been amended to require that the tubing device, when closed form a curvilinear channel of a substantially circular cross-section, as at least shown in Figs. 10, 12, and 13, and as supported by page 20, lines 2-3, which state “the two together will form a circular or substantially circular channel or passageway 56...”. In addition, the channel must contact the tubing substantially around its periphery. While Miles shows a curvilinear channel, for the reasons stated above, Miles does not show a curvilinear channel of substantially circular cross-section which contacts the tubing around its entire periphery and, therefore, claims 20-25, and any claims depending thereon, are allowable.

With regard to claim 35, it has been amended to require that the curvilinear channel be a tube contacting channel, and have a substantially circular cross-section. Claim 36 depends from claim 35, and is therefore allowable.

In regard to claim 37, this method claim has been amended to require that the method be practiced with the device of claim 35. It is believed that this sufficiently limits the claim so that it is allowable over the art.

Claim 38, which requires "a weight bearing flexible intravenous tube" has been amended to require that the tube be disposed within the structure, and be surrounded by the structure for two-thirds of its periphery. This claim reads at least on Figs. 9 & 9A, and support for the claim limitations can be found on page 20 of the specification. Since Miles (US 5,916,199) has no weight applied to the tubing or tubing device 14, it is believed that claim 38, as amended, is allowable thereover.

With regard to claim 39, it has been amended to require that the tube be disposed within the structure, and that a slight compressive force be applied to the tube about substantially its entire periphery. Since Miles (US 5,916,199) does not contact the tubing over its entire periphery, it can't apply a slight compressive force about the entire periphery, and claim 39 is therefore allowable over Miles. Support for this amendment is found on page 23 of the specification.

Claims 40 & 41 have been cancelled, thus rendering the Examiner's rejection moot as to these claims.

The Examiner next rejects claims 49, 50, 52 and 56-58 as being anticipated by U.S. Patent No. 3,982,304 to Menshen. The Examiner states:

The patent to Menshen discloses a tubing apparatus comprising a support member, wherein the support member is a solid rectangular block (12), at least two parallel channels (26,28) through the solid rectangular block for retaining tubing

and structure, including third opening (42) and bolt to support the weight of the tubing apparatus without substantially deforming the tubing retained by the support member, as recited in claims 49 and 50.

The patent to Menshen US 3,982,304 shows two recesses (aligned recesses 26,30 and 28-32) holding two different longitudinally extending members (34,36). The fact that two different numbers were used implies two different members. Claim 49 has been amended, as discussed above in the Examiner Interview Summary, to positively claim a piece of flexible tubing, and to require that the piece of tubing pass through all or both of the at least two channels. With these amendments, claim 49, and claims dependent thereon are allowable.

Lastly, claims 54 and 55 are rejected as being anticipated by U.S. Patent No. 6,311,936 to Herr et al. The Examiner states:

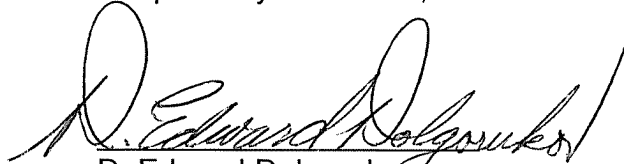
The patent to Herr et al. discloses a flexible support member, fig. 8, (60), which has a pair of channels formed proximate the ends of the flexible support member, as recited claim 54, and fig. 9 discloses structure to support the weight of the tubing apparatus (66) comprises a curved portion (64) of the flexible support member between the two channels, as recited in claim 55.

Claim 55 has been cancelled, rendering this rejection moot as to claim 55. With regard to claim 54, this claim has been amended to be dependent on now allowable claim 49, rendering this ground of rejection moot as to claim 54.

In view of the above amendments, and the remarks explanatory thereof, a favorable reconsideration of the present application, and the passing of this case to

issue, is courteously solicited. If for some reason the Examiner feels the some of the claims are still not allowable, or wishes to discuss some change in language, a telephone interview with the undersigned attorney of record is invited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Edward Dolgorukov", written over a horizontal line.

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